



October 6, 2011

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109*

Dear Ms. Dortch:

The record demonstrates that for Alaska and Alaska Native regions, one-size-fits-all universal service reform will not meet the Commission's statutory mandate to facilitate access to "advanced telecommunications and information services" in "*all* regions of the Nation."¹ As the entire Alaska congressional delegation wrote yesterday in a letter to Chairman Genachowski, "it is critical that targeted reform solutions are put in place to address the unique challenges that Alaska faces."² General Communication, Inc.'s ("GCI") proposed Alaska Tribal Connect America Fund ("ATCAF")³ and the attached proposed rules address the unique needs and challenges of Alaska Native regions and are necessary to satisfy the Commission's reform goals of deploying broadband service to remote areas of the country, while restraining excessive growth in the Universal Service Fund ("USF"). There is broad support for the cap and retarget

¹ 47 U.S.C. § 254(b) (emphasis added).

² Letter of Senator Lisa Murkowski, Senator Mark Begich, and Congressman Don Young to Chairman Julius Genachowski (October 5, 2011) ("Alaska Congressional Delegation Letter").

³ GCI formerly referred to this as the Alaska Broadband Plan, but the revised name better reflects how it fits into the overall framework before the Commission.

approach among Alaska stakeholders and other interested parties,⁴ which further underscores the soundness of this approach.

Universal Service Reform Must Account For the Unique Service Needs of, and Challenges Faced by Consumers and Carriers in Tribal Lands and the Non-Contiguous States.

The current nationally applicable reform proposals do not tackle the unique obstacles to providing service in the nation's Tribal Lands, including Alaska Native regions, and the non-contiguous states. The Commission and others in this proceeding, including the proponents of the ABC Plan,⁵ have rightly recognized that reform for the contiguous United States may not work for tribal lands, including Alaska or Hawaii. That acknowledgment tracks the Commission's consistent adoption of policies designed to address the unique status and circumstances present in Tribal Lands. When it adopted the Tribal Lands exception to the competitive eligible telecommunications carrier ("CETC") high-cost support caps, for example, the Commission rightly concluded that Tribal Lands, including all Alaska Native regions, have been underdeployed and that universal service support to CETCs is a critical part of bringing the communications infrastructure in Tribal Lands closer to what is available in the rest of country.⁶ While the Tribal Lands exception to the CETC cap has been successful at fostering deployment and service improvements on some Tribal Lands, the on-the-ground reality has not changed so significantly over the past two years that it can now be abandoned. Alaska's Native regions – which comprise the entire state because of the history and dispersion of Alaska's Native populations – continue to lag far behind the contiguous United States with respect to both modern 2G wireless and broadband services.

It would be too much to expect any national plan to accommodate the range of differences between Tribal Lands, particularly those that also lie outside of the contiguous states, and the rest of the country.⁷ The differences among various tribal communities in terrain, population dispersal, government, sovereignty, history, and the development of communications

⁴ See e.g., Comments of General Communication, Inc., WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Comments of the Alaska Rural Coalition, WC Docket No. 10-90 et al. (filed Aug. 29, 2011); Reply Comments of the Regulatory Commission of Alaska, WC Docket No. 10-90 et al. (filed Sept. 6, 2011).

⁵ See Joint Comments of AT&T et al.

⁶ See *High-Cost Universal Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc., and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, 23 FCC Rcd. 8834, 8848 ¶ 32 (2008).

⁷ The Tribal Lands exception to the CETC cap was based on the understanding that the status quo better addressed the needs of those areas than the proposed, singular regulatory change, and thus the Commission was able to treat all Tribal Lands the same. Here, where the Commission appears to reject the status quo in most areas and is attempting complex, comprehensive reform across the nation, it is impractical to expect uniform treatment of diverse tribal communities and non-contiguous states.

networks and markets make it impractical or even impossible to allow for effective, efficient satisfaction of USF reform goals for Tribal Lands through a single funding mechanism.⁸ The Commission needs to approach Tribal Lands flexibly, and in a manner that does not disrupt ongoing deployments and service improvements. The ATCAF does this, tailored to the needs of Alaska Native regions, while simultaneously meeting the Commission’s reform goals by capping high-cost support at 2010 levels, better targeting support over time, and setting broadband service standards as a condition of continued eligibility.

The Need For Support in Alaska Greatly Exceeds the Support That The National Plans Would Provide.

If applied to Alaska Native regions, the ABC and RLEC plans would drastically reduce USF funding to Alaska, stymieing Alaska’s wireless and broadband deployment and shifting support towards other areas of the country that already have modern 2G, and possibly even 3G wireless services, and that are closer to having universal broadband availability. The irony is that these plans would shift as much as \$150 million from the country’s hardest to serve areas, to places that are significantly less challenging in terms of population density, topography, climate, and supporting infrastructure such as power supply and roads. As Alaska’s congressional delegation recently stated, “Not only are there a substantial number of communities in Alaska still lacking any wireless service, there is also a huge digital divide developing between Alaska and the rest of the U.S. While the Lower 48 continues to build out its 4G wireless network to both urban and rural areas, Alaska is still in the early stages of building out its 3G network.”⁹ Recognizing the differences and the difficulty in fitting Alaska and similarly situated areas directly into a national plan, the ABC proponents explicitly recognized the need to treat Alaska and Hawaii differently.

⁸ Indeed, Congress has treated Alaska Native regions differently than tribal communities in the rest of the country as a matter of law. Alaska claims were settled by Congress in the Alaska Native Claims Settlement Act (“ANCSA”), enacted in 1971. ANCSA divided Alaska into 12 geographical regions, and provided for the establishment of multiple for-profit Alaska Native Village Corporations and a single for-profit Alaska Native Regional Corporation in each region. The Village Corporations own the surface estate of the lands granted to them under ANCSA; each Regional Corporation owns the subsurface estate of the lands granted to the Village Corporations in its region. ANCSA also granted surface and subsurface lands and other rights directly to the Regional Corporations. While there are more than 200 Alaska Native entities included on the list of federally recognized tribes updated periodically by the Bureau of Indian Affairs pursuant to the *Tribe List Act*, the listed entities generally are not the Regional or Village Corporations, and thus, the Alaska Native entities do not own or have legislative jurisdiction over particular reservation lands. As a result, the entirety of Alaska is designated as “Tribal Lands,” consistent with which the Alaska Native population is widely dispersed throughout the state, such that a separate fund designed to achieve USF reform goals for discrete reservations could not be expected, at least on an exclusive basis, to meet the specific needs of Alaska Native regions.

⁹ Alaska Congressional Delegation Letter at 1.

U.S. Telecom estimates that the ABC Plan would provide only \$6 million in the price cap study areas in Alaska that would be covered under the ABC Plan.¹⁰ This comprises only a small fraction of the approximately \$71 million in 2010 high-cost support alone currently distributed in price cap study areas in Alaska.¹¹ Reduction of support flows of this magnitude will substantially diminish the ability of providers to serve all of Alaska and its Alaska Native residents dispersed throughout the state.¹² Reforms that prevent carriers from leveraging state-wide resources will, in turn, foreclose access to the private resources needed to deploy terrestrial middle-mile networks (typically leveraged with non-USF programs), which is the biggest ongoing obstacle to broadband delivery in most of rural Alaska (assuming continued access to high-cost support).

CTIA's recent attempts to quantify even the *initial* investment necessary to achieve mobile broadband services throughout the nation demonstrates the extreme costs of bringing broadband to Alaska.¹³ The CTIA CostQuest Study confirms the general understanding that Alaska mobile services are far behind the rest of the country, indicating that almost 60 percent of Alaskans do not have access to EVDO and HSPA service, and that no Alaska consumers have access to LTE or WiMAX service. The study also demonstrates that it will be much more difficult to provide these services to consumers in Alaska than anywhere else in the country. The study estimates that it will cost approximately \$943 per capita to deploy ubiquitous EVDO and HSPA coverage in Alaska. This is more than *double* the estimated cost of covering Montana, and *ten times* the cost of covering North Dakota. To fund ubiquitous deployment of even a single next generation OFDM service (LTE or WiMax), the study estimates an initial investment of \$647 per capita, which is more than *triple* the cost of doing so in Idaho, and more than *ten* times the cost of doing so in Maine.

As well-conceived and executed as this study is, and as forcefully as it demonstrates the severe investment challenges facing Alaska providers, it nonetheless underestimates the costs of providing service in Alaska. The study expressly excludes operating and maintenance costs,

¹⁰ See Letter from Jonathan Banks, U.S. Telecom, to Marlene H. Dortch, FCC, WC Docket No. 10-90 et al. (filed Aug. 16, 2011).

¹¹ See Federal Communications Commission, Response to United States House of Representatives Committee on Energy and Commerce: Request 4, Top Ten Recipients of High Cost Universal Support (2011) *available at* <http://republicans.energycommerce.house.gov/Media/file/PDFs/2011usf/ResponsetoQuestion4.pdf>. The \$56 million in annual high-cost support for ACS set forth in the Response also includes CETC support that ACS receives outside of its ILEC areas (*i.e.* the price cap areas). GCI has estimated that after subtracting ACS support in non-price cap areas, and adding non-ACS CETC support in price cap study areas, there was a total of approximately \$71 million in high-cost support distributed in price cap areas in 2010.

¹² Indeed, unlike many tribal populations in the country, more than 40 percent of Alaska Natives live in urban areas.

¹³ CTIA-The Wireless Association, U.S. Ubiquitous Mobility Study, September 21, 2011, GN Docket No. 09-51; WC Docket Nos. 96-45, 05-337, 10-90; WT Docket No. 10-208; CC Docket No. 01-92 (filed Sept. 22, 2011) ("CTIA CostQuest Study").

which are typically much higher in Alaska than in most other places. Costs to fuel tower equipment, for instance, can be 5 to 9 times higher than the national average due to the absence of a power grid in much of the State.¹⁴ Moreover, the Study estimated the costs necessary to provide coverage both “where [the] population resides as well as how that population could move.”¹⁵ It appears, however, that the study methodology used roads as a proxy for both “populated areas and paths for movement.” But these assumptions do not work for Alaska Native regions.

Much of the State is not served by roads. Instead, populations in rural communities move via boat, plane, or snow machine. Thus, by excluding those areas without any roads, it appears that the study does not capture the costs to cover many of Alaska’s rural residents, a majority of whom are Alaska Natives. Finally, the Study estimated costs based on “a typical portion of microwave backhaul to provide the desired level of mobile broadband coverage.”¹⁶ This methodology surely underestimates the cost to close the massive gap in terrestrial middle-mile facilities availability in Alaska. These examples underscore the extent to which assumptions underlying reform proposals designed for national application do not – and really cannot – incorporate Alaska.

Moreover, while “urban” by Alaska standards, even the larger price cap study areas are not densely populated, as demonstrated when compared with the rest of the country, and thus can be more costly to serve. For example, Anchorage–Alaska’s most populous city–contains only 171 persons per square mile, by far the lowest population density of the nation’s 275 cities with 100,000 or more residents.¹⁷ By comparison, Anchorage is a *third* less dense than the next densest city, Norman, OK (620 persons per square mile). It is *one-tenth* less dense than Frisco, Texas (1,893 persons per square mile) and *one-hundredth* less dense than, San Francisco (17,404 persons per square mile). With the comparatively sparse customer base and low overall population, it is more difficult for carriers even in Anchorage to recoup the investment necessary to connect fiber facilities across the large distances separating “urban” Alaska, as well as the costs of undersea fiber capacity to the closest Internet POP in Seattle. The Commission should recognize the high costs of serving throughout Alaska, including the more populated areas of Alaska, and at the bare minimum, refrain from instituting flashcuts to urban support that would devastate current and planned deployments throughout the state.

Support should be continued or redirected to allow carriers to employ whatever combination of technologies most efficiently provides the urban-quality services that all consumers in Alaska Native regions need, including mobile services to which consumers in both

¹⁴ See, e.g., Comments of General Communication, Inc. at 11-12, WC Docket No. 10-90 et al. (filed Apr. 18, 2011).

¹⁵ CTIA CostQuest Study at 6.

¹⁶ CTIA CostQuest Study at 12.

¹⁷ Population density statistics are as counted in the 2010 U.S. Census, *available at* http://en.wikipedia.org/wiki/List_of_U.S._cities_by_population#cite_note-PopEstBigCities-0, with further information available through the American FactFinder website *at* <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>.

rural and urban America are undeniably migrating. As discussed at length in this and other proceedings, mobile services are especially important in remote areas. The isolation that makes such places so hard to serve likewise makes the ability to communicate in those places so important, especially in emergency situations. As such, USF reform *cannot* give short shrift to mobile services, consistent with the statutory requirements of comparable universal service throughout all regions of the Nation.

The ATCAF Best Addresses the Unique Service Needs of Alaska Native Regions.

GCI's proposed ATCAF tailors USF and Intercarrier Compensation ("ICC") reform to address the unique service and support needs of Alaska Native regions, while meeting the Commission's reform goals of modernizing USF and ICC for broadband, and establishing fiscal responsibility, accountability, and market-driven policies.¹⁸

The ATCAF *promotes fiscal responsibility* by setting an overall budget and rationalizing the distribution of USF support within that budget cap. Specifically, the ATCAF would cap high-cost support for Alaska based on 2010 disbursements, initially freeze ILEC study area high-cost support at that level (subject to potential further reductions), and, by definition, limit aggregate statewide CETC disbursements. It would also freeze CETC support per line in each study area, further divorcing CETC support from ILEC support. In addition, growth above the cap (primarily due to an increase in wireless deployment and penetration) would be offset predominantly through reductions in CETC support in exceptionally high-support areas, as well as phased reductions to both CETC and ILEC support in Anchorage and other larger (all price cap-served) communities that do not receive High Cost Loop Support ("HCLS") today.

The ATCAF would also *maintain market-driven incentives* to expand service availability and adoption by continuing to limit support to CETCs on a per-subscriber basis. A CETC would gain support only if it wins a customer, which would create incentives for CETCs to deploy wireless services into unserved areas and increase affordable access. GCI's recent extension of wireless service to some of this nation's hardest-to-serve areas demonstrates the benefits of a pro-competitive approach to universal service support, the pent-up demand for wireless in unserved areas, as well as the important work yet to be done to ensure that Alaska

¹⁸ See *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime. Federal-State Joint Board on Universal Service, and Lifeline and Link-Up*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, ¶ 10, WC Docket No. 10-90 et al. (rel. Feb. 9, 2011); See also Julius Genachowski, Michael Copps, Robert McDowell, and Mignon Clyburn, FCC Commissioners, *Bringing Broadband to Rural America: The Home Stretch on USF and ICC Reform*, Official FCC Blog (Aug. 8, 2011), <http://www.fcc.gov/blog/bringing-broadband-rural-america-home-stretch>. ("[W]e will seek to achieve reform in a comprehensive and legally sustainable way that modernizes the current system; brings broadband to millions of Americans that are currently unserved; puts USF and ICC on a fiscally responsible path that provides incentives for efficient operations and accountability; contains the size of the Universal Service Fund; and fairly balances the interests of all consumers.").

communications services are comparable to those in the Lower 48 – and provide the associated improvements to public safety, economic development, and personal opportunity.

The ATCAF also *requires accountability* and *ensures the modernization of USF for broadband* by making commitments with respect to the level of broadband performance that must be delivered in return for continued receipt of high-cost support. Specifically, the ATCAF proposes commitments regarding coverage and speed, as well as reasonable included-usage and other performance metrics. These commitments are necessarily tied to the available middle-mile facilities, so that failure to meet unobtainable speeds or performance metrics will not foreclose service improvements in the hardest to serve areas.¹⁹ These commitments will provide greater accountability and a more certain transition to a USF funding mechanism focused on supporting broadband services.

The record in this proceeding demonstrates that GCI’s proposed ATCAF and the attached proposed rules address the unique needs and challenges of Alaska Native regions and are necessary to satisfy the Commission’s reform goals of deploying broadband service to remote areas of the country while restraining excessive growth in the universal service fund. Thus, GCI urges the Commission to adopt the enclosed proposed rules and to implement this reform framework in order to produce better results for the rural and Alaska Native communities throughout the State.

Respectfully submitted,

/s/

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Enclosure

¹⁹ The expense and technical constraints of varying broadband middle-mile transport options drive the speeds, included usage, and other performance metrics that may be available at a reasonable price point. The included usage and achievable latency offered in a satellite-served community, for instance, may be significantly lower than the included usage and achievable latency over microwave facilities. Even in Alaska’s more “urban” areas, the high fiber investment necessary to serve relatively small populations limits the ability to offer service plans with comparable speeds, included usage, and other performance metrics at a price point equal to similar offerings in the contiguous United States. For all service plans, regardless of middle-mile technology, subscribers will have the ability to upgrade service to better speeds/more included usage or pay for usage beyond the included amount.